

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MILTON WUZAEEL MATHIS,

Petitioner,

v.

**RICK THALER, Director,
Correctional Institutions Division,
Texas Department of Criminal Justice,**

Respondent.

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CIVIL NO. H-03-CV-1138

ORDER

On April 29, 2011, this Court denied Milton Wuzael Mathis' motion under FED. R. CIV. P. 60(b)(6) to reopen his first federal habeas action. (Docket Entry No. 39). Mathis has filed a motion requesting a Certificate of Appealability. (Docket Entry No. 41). He has also filed a notice of appeal. (Docket Entry No. 42).

The Anti-Terrorism and Effective Death Penalty Act bars appellate review of a habeas action unless a district or circuit court certifies specific issues for appeal. *See* 28 U.S.C. § 2253(c); FED.R.APP.P. Rule 22(b). A COA may issue when “[a petitioner] has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *see also Slack v. McDaniel*, 529 U.S. 473, 484 (2000). As Mathis has not shown under the appropriate standard that appellate review is necessary, this Court will not certify any issue for consideration by the Fifth Circuit. The Court **DENIES** Mathis' motion for a COA. However, he still may request a COA from the circuit court. *See* FED.R.APP.P. Rule 22(b).

The Clerk will provide copies of this Order to the parties.

Signed at Houston, Texas, on May 17, 2011.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE